

ORM NEWS

**Department of Veterans Affairs
Office of Resolution Management**



October 2002

From the Deputy Assistant Secretary



Fiscal year 2002 was a very challenging and very successful year. I congratulate each of you for the contributions you have made toward achieving our goals. During the past year we have been recognized as a leader in federal sector EEO complaint processing activities. We improved our timeliness for counseling to 25 days and are nearing the EEOC standard of 180 days for conducting investigations. We successfully completed the first National Leaders Conference; launched the Organizational Climate Assessment

Program (OCAP); and expanded our mediation efforts with VHA and VBA. We also made strides in becoming a more effective and efficient organization. Our success in becoming a recognized and important resource to the Department is based on teamwork, cooperation, and our ability to adapt to our changing role as we strive to meet and exceed expectations.

We have to continue to build upon the successful foundation we have already laid by identifying areas where we can improve and in doing so, add value to the Department. We have already begun this process by initiating our organizational realignment to better utilize our resources and improve the services we provide. Each of you plays an important part in where we are going and I am asking for your continued participation and support in this process.

Success is the result of an ongoing process of striving to be the best. It requires dedication, adaptability and a continuous focus on our customer's needs. The goals we set and the steps we take will determine our future. I look forward to our continued success this year.

Thank you for your contributions and support.

James S. Jones

Highlights of Regulations and Programs

ORGANIZATIONAL CLIMATE ASSESSMENT PROGRAM

We all want to feel good about the place in which we work. Research indicates that a workplace that fosters a healthy, safe and happy climate stands to gain tangible benefits. Employees who are satisfied with their work environment tend to be more creative, productive, and motivated. VA can make an impact on how its employees feel by taking positive steps to create a work environment that values the employee.

The Organizational Climate Assessment Program (OCAP) is designed to assist VA organizations in identifying employee concerns and issues that may have a negative impact on the workplace environment. OCAP also focuses on early resolution and complaint prevention. The teams that conduct the climate assessments are comprised of employees from the Office of Resolution Management (ORM) and other VA employees with backgrounds in equal employment opportunity, human resources, labor relations, and psychology.

OCAP has two major components; (1) Web-based Organizational Climate Surveys and (2) Focus Group Interviews. Web-based organizational climate surveys are used to obtain employees' opinions about their workplace environment. Surveys allow a large number of employees to participate in their organizational climate assessment.

Focus Group Interviews allow face-to-face dialogue among employees who are systematically selected to participate. Focus Groups consist of supervisory and non-supervisory employees. In addition, time is allotted for employees who were not selected but volunteer to participate in the assessment.

ORM has a partnership with the Veterans Health Administration's (VHA) National Center for Organization Development (NCOD). The purpose of the partnership is to utilize the expertise of NCOD's Human Behavior Specialists and obtain endorsement for the survey instrument and the information collected from the survey. Survey results are analyzed by NCOD.

OCAP is a proactive approach to improving the workplace environment and preventing EEO complaints in VA by early intervention and resolution of employees' concerns and issues. In addition, OCAP may contribute to improved workplace morale, increased productivity, improved communication, and cost savings to the agency which will result in quality service to our nation's veterans.

Contact LaMont Johnson or Alice Bell for more information on OCAP.

LaMont Johnson, Organizational Climate Assessment Program

Settlement Agreement Techniques and Tips Part III

The complainant, agency, and mediator just went through agonizing hours of lengthy mediation. After hours of hard bargaining, a settlement agreement is finally reached. Now how can the agreement be memorialized to assure that its terms will be enforced? How can the agreement be written in such a way that the settlement will not unravel? Here are a few more tips. But, before we get started, let's recap our tips in our earlier newsletters.

TIP #1: MAKE SURE THERE IS AN EXCHANGE OF CONSIDERATION.

TIP #2: DO NOT INCLUDE A "NO REPRISAL" CLAUSE.

TIP #3: MAKE SURE THE PROVISIONS ARE PRECISELY STATED.

TIP #4: INCLUDE TIME FRAMES.

TIP #5: DEFINE TERMS



TIP #6:

MAKE SURE THAT THE APPROPRIATE PARTIES SIGN THE AGREEMENT, AND REMEMBER ONLY THE PARTIES TO THE AGREEMENT ARE BOUND BY ITS TERMS.

A settlement can not impose obligations on a third party without their consent; such a term is unenforceable on the ground of impossibility. For example, to settle a claim of harassment, between the complainant and the agency, do not state that the chief will attend a course entitled "Stress Management," if the chief does not sign the settlement agreement. Ordinarily the director or approving official signs the settlement agreement; however, in this instance, the chief would also be required to sign the agreement. Another example of obligating a third party to a settlement agreement is when the provision states, the complainant's OWCP claim shall be approved. Such a provision would purport to bind the Department of Labor and is impossible to ensure fulfillment. When a settlement agreement binds a third party to the agreement without their consent, the provision in the settlement agreement is deemed void or voidable. When a provision is void, the settlement agreement can be deemed void. Subsequently the case may be reinstated from the point processing ceased before the settlement negotiations.

TIP #7:

FOR AGE DISCRIMINATION COMPLAINTS, INCLUDE THE SPECIAL PROVISIONS.

Remember that when a complaint includes a claim of discrimination on the basis of age, special provisions must be included in the settlement agreement. The absence of these provisions renders the agreement void. When a settlement agreement is void, the case is reinstated from the point processing ceased before the settlement negotiations. Under the ADEA, *Dolores M. Oubre v. Entergy*

Operations Inc., 522 U.S. 422, 118. S. Ct 838 (1998), the Court of Appeals, Seventh Circuit ruled that the complainant did not have to tender back the consideration received before the case was reinstated. For example, if the complainant received \$2,000 in attorney fees, the complainant would not have to give back the attorney fees before the case was reinstated. The courts have ruled that if the complainant's prevail in an ADEA claim of discrimination, any monetary award may be subject to offset of consideration that they have already received from the agency. *Arun C. Baus v. Department of Agriculture*, Appeal No. Gordon R. England v. Department of Navy Appeal No. 01A06004 (7/17/01) *Lillian F. Sandle v. Department of Veterans Affairs*, Appeal No. 01994141 (8/2/00). The following is a list of provisions that must be included in ADEA settlement agreements.

The parties specifically acknowledge that the Complainant has preserved the following rights and responsibilities through the execution of this Agreement:

- a. The Complainant has thoroughly reviewed the entire Agreement and understands its provisions; and
- b. The Complainant has not waived any rights or claims that may arise after the date of this Agreement is signed; and
- c. The Complainant has not waived any rights or claims to benefits to which he is entitled; and
- d. The Complainant has the right to consult with an attorney prior to signing the Agreement; and
- e. The Complainant has a period of twenty-one (21) days to consider the Agreement; and
- f. The Complainant will have seven (7) days following the execution of the Agreement to revoke the Agreement, and the Agreement will not become effective or enforceable until the seven-day revocation period has expired; and
- g. The Complainant's relinquishment of these claims and rights is specifically conditioned upon the Agency's performance of the actions set forth hereinabove.

(In an agreement settling an age discrimination complaint, provide that any substantive relief, such as compensatory damages, will be provided after the expiration of the seven-day revocation period).

(Gina Suppa (*Rusnov*), ORM, Office of Policy & Compliance)

Political Activities in VA Facilities and Employee Participation in Partisan Activities



With the upcoming local and state elections, we wanted to share with you the following information on political activities in VA facilities and employee participation in partisan activities. On June 6, 2002, Secretary Principi signed a memorandum entitled "Political Activities in VA Facilities and Employee Participation in Partisan Activities".

Topics covered included: Handling Requests for Using VA Grounds and Spaces, Reviewing Political Requests, Additional Guidance for Handling Political Requests, and Employees' Rights and Limits.

Most employees, with the exception of Career Senior Executives, can lawfully participate, off campus and outside Government space, in many aspects of political campaigns and the political process. The activities permitted for most employees include, but are not limited to, helping in and managing campaigns, actively participating in party events off Government grounds, and promoting voter registration. No employee, however, may solicit, accept or receive political contributions, either on Government grounds or elsewhere.

Further detailed information on this topic is available on VA's main Internet page at <http://vaww.va.gov> under "*Handling Requests to Conduct Political Activities and Employee Political Do's and Don'ts.*" The Office of Public Affairs (OPA) has also prepared guidelines and strategies for handling these types of requests and issues. The OPA guidance is available at <http://vaww.newslink.va.gov> under OPA Resources Site.

Secretary Principi closes the memorandum by stating "As Americans we cherish our rights, and those of others, to participate in the political system. As civil servants and professionals, we should accommodate all reasonable requests from Members of Congress and other candidates for elected office, however, we must remain aware of the limits that apply. Keeping those rights and limits in mind will help us meet our duty to our Nation's veterans and their families."

Terry Washington, ORM External Affairs Program

Office Notes

Office of the DAS

On August 28, at the 2002 Savings Bonds Campaign Award Ceremony at VA Central Office, the Honorable Robin L. Higgins, outgoing Under Secretary for Memorial Affairs and Chairperson for the 2002 VA Savings Bond Campaign, recognized the Office of the Deputy Assistant Secretary for Resolution Management as one of just two VA organizations that met the challenge of increasing their savings bonds allotments. Mrs. Higgins congratulated the Office of the DAS for meeting the Department's goals by encouraging employees, already purchasing Savings Bonds through the payroll savings plan, to increase their allotments by 14%. In addition, the Office of the DAS was rated as one of the top five organizations at Central Office to exceed their overall participation, which this year was 58%. The Department's goal was 50%. And finally in terms of meeting or exceeding the Department's 5% goal for increased participation, the Office of the DAS led the list of the four top organizations with an increase of 29%, which earned the office a framed Patriotic Service Award.

Alice E. Bell, Chairperson for the Office of the DAS, along with other chairpersons and volunteers, received a beautiful quartz clock featuring the US Savings Bonds logo and a framed certificate for her role and support in this year's campaign.

Bedford Satellite Field Office



Marjorie Ann Dondis, EEO Investigator, married Craig McNutt on Friday, September 13, 2002. They honeymooned, for a week, at Walt Disney World.

Congratulations Marjorie!

Lyons Field Office/Bedford Satellite

Shirley Pfleider, EEO Specialist (C-1), with the Lyons Field Office/Bedford Satellite, was the guest speaker at the White River Junction VAM&ROC Women's Equality Day Program. Shirley shared her personal experiences as a Special Emphasis Program Manager for the Federal Women's Program and talked about other EEO related roles. The program was well received by those in attendance.

Little Rock Field Office

On September 10th and 11th, a facility site visit was conducted at the Lexington VA Medical Center in Lexington, Kentucky. The purpose of the visit was to provide information on the services offered by ORM and how the EEO complaint processing system works. **Austin Lewis**, Field Manager; **Linda Blohm**, Intake Specialist; and **Debora Grigsby**, EEO Counselor, facilitated the training visit. During the two-day visit there were six (6) two-hour training sessions conducted for a total of twelve (12) hours. After each training session, participants were given the opportunity to participate in Q and A sessions. The courtesy training visit was well received by Mr. Forest Farley, Director, facility supervisors/managers and employees alike.

Houston Field Office

The Houston Federal Executive Board recently hosted Basic Mediation Skills training for agencies located in the Houston metropolitan area. **John Sequin**, EEO Intake Specialist, and **Charlyn Stewart**, EEO Counselor, provided instruction for this course.

Palo Alto Field Office

Ronald McCullough, EEO Counselor, was recognized as a life member of Blacks in Government (BIG) at the 24th National BIG Training Conference that was held in Atlanta, Georgia from August 26 to 30, 2002. The theme of the conference was "Accept the Challenge, Exceed the Standard through Professional Development."

Washington Field Office

The Washington Field Office held a special first anniversary commemoration in honor of those who lost their lives and loved ones on September 11, which was designated "Patriots Day" by President Bush. Employees joined the nation in prayer and remembrance activities. A special slide presentation, centering on patriotism, was shown. Employees joined together in praise and song for those who exhibited great courage on that dreadful day. A continental breakfast was provided and employees were given the opportunity to share their thoughts and feelings with each other. As the commemoration ended, each employee was presented with an "Emotional Survival Kit" as a token of brotherhood and solidarity. Click the attached to view the "Survival Kit."



survival kit.doc

Vanessa Deal, Cheryl Thompson, Caulton Allen and Fred Smith of the Washington Field Office participated in the Basic Mediation Skills Course held in Baltimore, Maryland from September 9 to 13.

John Jones, EEO Investigator (C-1), Fayetteville Satellite Office, conducted Basic Mediation and ADR Awareness training as part of this course. Hats off to John for his professional contributions as an Instructor for this course. Good Job!

Darrell Ford, EEO Intake Specialist, Fayetteville Satellite Office, conducted training on the EEO complaint process at the VA Medical Center, Fayetteville, NC, from September 25 to the 26.

Our condolences go out to **Anthony Metcalf** for the loss of his father, James T. Metcalf, on September 13, 2002, A "Going Home Celebration" for Mr. Metcalf was held on September 18, 2002. We would like to express our deepest sympathy to Anthony and his family for their loss.

Leavenworth ORM Field Office

Employees of the Leavenworth ORM Field Office joined together to show their support for the community and those in need of assistance. On September 11, 2002, food donated by the employees was presented to the Leavenworth Emergency Assistance Center. The donation was greatly appreciated by the Center's staff.

The office also attended a memorial service for the victims of the terrorist attack on September 11, 2001, at the Leavenworth National Cemetery. The Leavenworth Police Chief and Leavenworth Fire Chief were the keynote speakers. The serene notes of "Amazing Grace" and "Flowers on the Forest," played on a bagpipe, accompanied the service.

On August 6 and 7, 2002, **Doris I. Gooch**, Intake Specialist, and **Barbara Suzanne Gordon**, C-1, (Denver Satellite) co-presented EEO Training for Supervisors and Managers. The August 6th training was held at the Denver VAMC for 100 plus VA supervisors and managers within the Denver, Colorado commuting area. The August 7th training, to 50 plus supervisors and managers, was held at the VAMC in Cheyenne, Wyoming. Ms. Gooch and Ms. Gordon were well received with outstanding follow-up remarks from attendees.

Hines Field Office

Deborah Sorrell, Intake Specialist, and **Tami Press**, C-2, provided training on September 19-20, 2002, to supervisors at the Milwaukee, Wisconsin VA Medical Center. Key issues included EEO Discrimination Complaint Process Updates and Vicarious Employer Liability for Unlawful Harassment by Supervisors.

Did You Know?

Tolerance in the Workplace

Tolerance means: “*The capacity for or practice of recognizing and respecting the opinions, practices, or behavior of others.*”

Biases based on race, sexual orientation, age, gender, disability, or body image, are forms of intolerance which have negative effects on our day-to-day interactions with others. In the workplace, as elsewhere, relationships based on our biases are no-win situations for everyone. Think about a workplace where intolerance rules. Would you want to work there?

Diversity in the workplace requires tolerance of one another, recognition of our differences, and the ability to find common ground in order to get the job done. Practicing tolerance in the workplace is a win-win situation for everyone involved.

We can be an employer of choice only when we treat our colleagues with the dignity and respect we want for our loved ones and ourselves. Each of us is entitled to no less!

**James S. Jones
Deputy Assistant Secretary
Office of Resolution Management**

ORM NEWS is a monthly publication of the Office of Resolution Management. Please E-mail Terry Washington, External Affairs Program Analyst, or Tyrone Eddins, External Affairs Program Manager, to submit your recommendations, suggestions, or comments on the information presented in this newsletter. We can be reached at (202) 501-2800. Back copies of the newsletter can be found on ORM’s Web site at <http://www.va.gov/orm/NewsEvents.htm>.